

**UNITED STATES DISTRICT COURT  
DISTRICT OF NEW JERSEY**

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NOEL VELASQUEZ,

Plaintiff,

v.

CITY OF PASSAIC,

Defendant.

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Civil Action No. 11-2075 (SRC)

**OPINION**

**CHESLER, District Judge**

This matter was initiated by Order To Show Cause, issued by Magistrate Judge Shipp on July 14, 2011, directing pro se Plaintiff Noel Velasquez to show cause why the magistrate judge should not recommend that the district court dismiss this action for failure by Plaintiff to prosecute his action and to comply with court orders directing him to appear for conferences.

The Order To Show Cause expressly warned that should Plaintiff fail to appear in person to show cause as ordered, Judge Shipp would recommend that the district judge dismiss this action. Judge Shipp issued a Report and Recommendation (“R&R”) on January 13, 2012 pursuant to Fed. R. Civ. P. 72(b), L. Civ. R. 72.1(a)(2), and 28 U.S.C. § 636(b)(1)(C) [docket entry 10]. According to the R&R, Plaintiff neither appeared as required by the Order To Show Cause nor filed a pre-hearing written submission.

Judge Shipp recommends that this Court dismiss Plaintiff’s Complaint pursuant to Federal Rule of Civil Procedure 37, which permits the Court to “dismiss the action . . . or render a judgment by default against the disobedient party.” Roadway Express v. Piper, 447 U.S. 752,



763 (1980) (citations omitted). The time for filing objections to the R&R has expired. 28 U.S.C. § 636(b)(1)(C) (“Within fourteen days after being served with a copy, any party may serve and file written objections to such proposed findings and recommendations as provided by rules of court.”). No objections to it have been filed. This Court has reviewed Judge Shipp’s R&R. It accepts and agrees with Judge Shipp’s findings and recommendation in whole. Plaintiff’s non-compliance with court orders, apparent disinterest in prosecuting his case and overall dilatory behavior warrant imposing the sanction of dismissal pursuant to Rule 37.

Accordingly, this Court will adopt the R&R issued on January 13, 2012 [docket entry 10] as the opinion of the Court and will dismiss Plaintiff’s Complaint pursuant to Federal Rule of Civil Procedure 37. An appropriate form of Order will be filed.

s/Stanley R. Chesler  
STANLEY R. CHESLER  
United States District Judge

DATED: January 31, 2012